

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3219 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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WIPRO LIMITED

Versus

STATE OF GUJARAT  
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Appearance:

MR AC GANDHI for Petitioner  
VM PANCHOLI, ASST. GOVERNMENT PLEADER  
for Respondent No. 1, 2  
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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 28/06/1999

ORAL JUDGEMENT

The petitioner possesses a parcel of land at Bhavnagar. The petitioner wanted to mortgage the said land to the State Industrial Investment Corporation (for short "SICOM") under section 27 of the Urban Land (Ceiling & Regulation) Act, 1976, (for short "the Act")

for permission for the aforesaid transfer by way of mortgage. The Industries Commissioner rejected the said application on the following grounds:-

- (i) That the petitioner has no clear title over the land in question;
- (ii) SICOM was not mentioned in the list of financial institutions as per Government Resolution dated 23.8.1988.

In the said Circular the Government had stated as to which financial institutions are on the approved list and SICOM was not included in the said list.

2 While admitting this petition on 9.10.1989 this Court passed the following interim order:-

"By way of interim relief, it is ordered that subject to the result of this petition the respondents are directed to grant permission under section 27 of the Urban Land (Ceiling and Regulation) Act, 1976 to the petitioner to mortgage its immovable property at Bhavnagar in favour of State Industrial Investment Corporation, Maharashtra, if other conditions of the Urban Land (Ceiling and Regulation ) Act are fulfilled."

In view of the above interim order, the State Government granted permission under section 27 of the Act to the petitioner to mortgage the land in question in favour of SICOM subject to the result of this petition.

3 When the matter is called out for final hearing today, it is brought to the notice of the Court that in view of the provisions of Urban Land (Ceiling and Regulations) Repeal Act, 1999, adopted by the Gujarat State Legislative Assembly by a Resolution dated 30th March 1999, passed under Article 252(2) of the Constitution, the proceedings under the Urban Land (Ceiling and Regulation) Act, 1976, will not survive and that therefore the impugned order of the Industries Commissioner rejecting the petitioner's application would also not survive. Anyhow, since in view of the interim order passed by this Court the Industries Commissioner has already granted permission u/s 27 of the ULC Act before the enactment of the Repeal Act, this Court does not propose to go into the merits of the challenge contained in the petition and the petition is being disposed of with the direction that the permission granted by the respondents to the petitioner to mortgage

the land in question to SICOM shall subsist as a valid permission under section 27 of the ULC Act, 1976. Accordingly, the impugned order dated 16th September 1988, passed by the Industries Commissioner, at Annexure-N to the petition, is required to be quashed and set aside.

4 The petition is accordingly allowed. The impugned order dated 16.9.1988, passed by the Industries Commissioner, is hereby quashed and set aside and it is declared that the permission granted by the Industries Commissioner pursuant to the interim order dated 9.10.1989 of this Court permitting the petitioner to mortgage the land at Bhavnagar in favour of SICOM shall subsist. No order as to costs.

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(mohd)